

REMARKS

This amendment is responsive to the Office Action mailed on August 10, 2009 and the Advisory Action mailed on December 22, 2009. The Examiner's comments in the Office Action have been considered.

Claims 23 and 24 had been labeled as being "withdrawn". The Examiner has correctly indicated in paragraph 1 of the Office Action that these claims had not been withdrawn and the labels for these claims have been corrected.

The specification has been amended to correctly delete paragraph beginning on page 2, line 20 and not on page 2, line 2 through page 3, line 1-7. The specification has been accordingly amended and the original deleted language reinstated.

The status of claims 26-43 and 50-122 has been withdrawn as noted.

The Examiner has requested a certified copy of the German application No. 103 01 591 filed in Germany on January 16, 2003. However, although applicant has sought to obtain such priority document, it has encountered a problem in doing so. Applicant will continue to seek such document and we will file the same as soon as it is available from the German Patent Office.

The disclosure has been objected to for reasons set forth in paragraph 4 of the Office Action. The disclosure has been corrected to address this informality.

Claims 1-25 and 45-49 have been rejected as being indefinite, for reasons set forth in paragraph 6 of the Office Action. Appropriate revisions to the claims have been made to address these rejections. In this connection, applicant also notes the following:

Claim 1 has been supplemented by the feature that "the car is traveling on a rail track. This can be derived from original figures 4 to 25 among others. In addition, the wording "when unloading takes place" has been supplemented by the wording "for unloading the rail car" and the wording "when loading takes place" has been supplemented by the wording "for loading the rail car". Furthermore, the feature that "the lifting devices are anchored to the track bed of the rail track" has been added twice to substitute the last feature of claim 1. That the lifting devices are anchored to the track bed of the rail track can be derived from the whole disclosure and also from the aforesaid figures.

Claim 2 remains unchanged.

Claims 3 to 6:

Claims 3 to 6 have been formulated as method steps.

Furthermore, claims 4 to 6 have been amended to overcome the rejections concerning the lack of antecedent basis.

Claims 7 and 8:

Claims 7 and 8 have been revised to address and overcome the objections/rejections.

Claims 9 and 10:

Claims 9 and 10 have also been rewritten as method steps.

Claim 11:

Claim 11 has been revised to address and overcome the objections/rejections.

Claim 12 remains unchanged.

Claim 13:

Claim 13 has been amended in accordance with claim 1. The feature that "the trains are traveling on rail tracks" has been added. In addition, the use of the wordings "unloading position" and "loading position" has been clarified.

Original Claim 13 in general covered two different possibilities of transferring cargo from a first train to a second train. This can be derived from original claims 14 and 16:

The first possibility is that the cargo is unloaded from the first train traveling on a first rail track. Thereafter, the first train leaves and the second train arrives on the same, namely the first rail track. Then, the cargo is transferred to the second train. The second possibility is that the second train is traveling on another, namely a second rail track, and the cargo is transferred from the first train to the second train, wherein the two trains can be standing next to one another in their unloading or loading position. Consequently, claim 13 has been clarified to cover these two possibilities and these are still covered by amended claim 13.

Claims 14 and 15:

Claim 14 now refers to only one loading or unloading position. The "in particular" feature of claim 15 has been deleted.

Claim 16:

Claim 16 is maintained unchanged.

Claim 17:

Claim 17 has been amended in accordance with claim 1

Claims 18-19:

Claims 18-19 are maintained unchanged.

Claim 20:

The lifting devices are arranged along and adjacent to or next to the track rails but are not between the track rails. This means that the lifting devices are not arranged between the two track rails of the track, but next to an outer side of the track rails.

This can be seen in figures 14 to 16.

Claim 21:

The feature that "the lifting devices are based on the wedge principle" has been taken out of claim 21. However, this has been claimed in new claim 123. This describes the function of the lifting devices 11 1 which are lifted by pushing two wedges from two sides under the devices 111.

Claim 22:

Claim 22 has been amended. The loading and unloading face (140) is contained in claim 17. Therefore, there is an antecedent basis for the loading and/or unloading face (140).

Claim 23:

The "for example" feature has been taken out of claim 23. Furthermore, the back reference has been adapted. In addition, the feature that "after the lifting operation the car super structure can be pushed in a direction transverse with respect to the direction of travel on the load supports", which was contained in original claim 23 has been reintegrated.

Claim 24:

The dependency of claim 24 has been corrected. Consequently there is now an antecedent basis for the load support.

Claim 25:

Claim 25 is maintained unchanged.

Claims 26-44:

Claims 26-43 remain withdrawn. Claim 44 remains cancelled.

Claim 45-47:

Claims 45-47 are maintained unchanged.

Claim 48:

Claim 48 has been amended to clarify that the loading and/or unloading devices (100) are all energized by a single or common source of energy.

Claim 49:

Claim 49 is maintained unchanged.

Claims 50-120:

Claims 50-120 remain withdrawn.

Claims 123 and 124:

Claims 1-25 and 45-49 has been rejected as being obvious under 35 USC 103 in the basis of U.S. Patent No. 4,522,546 to Ringer in view or when combined with U.S. Patent No. 4,049,135 to Glassmeier, both previously cited for reasons set forth in paragraph 8, starting on page 5 of the Office Action. Claims 1-25 and 45-49 have also been rejected as being obvious under the basis of Ringer and in view of Glassmeier and in further view of either U.S. Patent No. 4,715,766 to Gebhardt or Japanese Publication No. JP 51-194938 to Tenaby for reasons set forth in paragraph 9 on page 7 of the Office Action. Applicant

respectfully traverses these rejections on the basis of the amendments to the claims and in view of the arguments presented below. Reconsideration and withdrawal of these rejections is respectfully requested.

Obviousness of new independent claims 1, 13 and 17

With respect to D1 (Ringer):

D1 does not disclose lifting devices, which are directly anchored to the track bed (and not to the tracks) of the rail tracks on which the rail car is traveling. In contrast thereto, the transfer devices of D1 are movable on special auxiliary tracks (I, 11, III and VI), which are positioned adjacent to the main track (G', G'') used by the freight trains (see figure 2 of D1, column 2, lines 11-15, column 4, lines 37-62).

With respect to D2 (Glassmeyer):

The adapter frame 16 has a basically plane construction. Thus, it can only safely be placed on a plane and relatively broad underground and would have to be fixed thereto to assure a safe hold of the adapter frame 16 for example during transportation. In general, the car frame of a rail car, does not provide such a plane and broad underground. In contrast thereto, a rail car usually only has a small longitudinal member construction, which would not provide sufficient support for the adapter frame 16 of D2. The adapter frame 16 would tilt to the side. Furthermore a container placed on the adapter frame 16 placed on the longitudinal member construction of the car frame would be positioned very high and the railway loading gauge would not be kept. Furthermore, the adapter frame 16 does not have any means for securing the container in the lateral direction and/or in the direction of travel, which is necessary for the transport on a rail car. Consequently, the

adapter frame 16 is not suitable for the use as a car superstructure in accordance with the invention. For use within the invention it would have to be adapted.

With respect to D3 (Tanabe):

D3 also fails to disclose lifting devices, which are anchored to the track bed of the rail tracks on which the rail car is traveling. The devices (5, 7, 9) of D3 are anchored adjacent to the track bed of the rail tracks on which the rail car (3) is traveling, but not fixed directly and permanently to this track bed D3, figure 1).

With respect to D4 (Gebhardt):

D4 only discloses a distribution apparatus traveling on its own tracks (5). D4 does not deal with loading and unloading of rail cars. Consequently, D4 does not disclose lifting devices which are anchored to the track bed of rail tracks on which a rail car is traveling.

In conclusion, none of the cited references disclose lifting devices which are directly anchored to the track bed of the rail tracks on which the rail car is traveling. In other words, the lifting devices are fixed to the track bed and are never movable. The advantage of this arrangement over the known arrangements is that the driving devices, for example the engines, for driving the lifting devices as well as the necessary transmissions and drive shafts can all be fixed to the track bed or the platform and do not have to be fixed to the movable lifting device itself. Therefore the driving devices, transmissions and drive shafts can be designed very robust. Especially high forces, in particular vertical aligned forces as weight, can be received by the driving devices, transmissions and drive shafts. In the case of the movable lifting devices according to D1, D3 and D4 the driving devices, transmissions and drive shafts cannot be designed as robust as desired, because the lifting devices must not be designed too heavy and too big for still being movable easily.

Furthermore nearly only vertical forces and no moments of tilt affect the lifting devices during lifting the load because they are directly and permanently anchored to the track bed of the rail tracks on which the rail car is traveling.

In addition, the necessary power can be fed to the lifting devices via cables or hydraulic tubes which are installed fixedly.

That the use of the adapter frame (16) of D2 within the invention is not obvious has already been pointed out.

Consequently, it is respectfully submitted that the independent claims 1, 13 and 17 are not obvious with respect to the applied references. Reconsideration of the outstanding rejections of these claims and all claims that directly or indirectly depend from these claims is respectfully requested.

This application is now believed to be in condition for allowance. Early allowance and issuance is, accordingly, is respectfully solicited.

Applicant hereby any fee necessary for the consideration of this Amendment or to prevent abandonment of this application, to be charged to Deposit Account No. 10-0100.

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Respectfully submitted,

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